MULTIMEDIA UNIVERSITY

STUDENT IDENTIFICATION NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2017/2018

BIR3084– INDUSTRIAL RELATIONS

(All sections / Groups)

12 OCTOBER 2017

(9.00a.m -11.00a.m)

(2 Hours)

INSTRUCTION TO STUDENT

1. This Question paper consists of **THREE (3)** pages with **FOUR (4)** Questions only.
2. Attempt **ALL** questions. All questions carry equal marks and the distribution of the marks for each question is given.
3. Please write all your answers in the Answer Booklet provided.

QUESTION 1

Employment relations in Malaysia is dominated by "managerial unilateralism" as a consequence of a long history of union repression. Malaysia's adherence to a minimalist version of the tripartite framework promoted by the International Labour Organization and its long-standing status as a middle-income country have meant the kinds of international pressure and support for change evident in some other Southeast Asian countries is largely absent. Internally, pressure for change has been minimal because of the heavy hand of the state, which has made it clear that any challenge will be dealt with severely both at the individual and the organisational level.The situation has been exacerbated by the fact that many traditionally unionised export-oriented industries have shifted to contract workers and regulatory adjustments have allowed for enhanced employment flexibility.The regulatory framework of Malaysia's formal industrial relations system has remained largely unchanged since independence. The system is underpinned by several laws, namely the Employment Act (1955), the Trade Union Act (1959), the Industrial Relations Act (1967), the Private Employment Act (1981) and the Labour Ordinances in Sabah (1950) and Sarawak (1952).

Source: Crinis V, Pasasuraman B (2016) Employment relations and the state in Malaysia. Journal of Industrial Relations 58(2): 215–228.

Questions

(i) The Malaysian industrial relations system is mainly governed by **THREE (3)** major labour laws such as the Employment Act 1955, the Trade Union act 1959 and the Industrial Relations Act 1967. Discuss the significance and impact of these **THREE (3)** major laws on the national industrial relations system and workplace industrial relations.

(15 marks)

(ii) Explain how the term "managerial unilateralism" is justified under Sec 13(3) of the Industrial Relations Act 1967.

(10 marks)

(iii) What are restrictions imposed on trade unions according to Sec 2 of the Trade Union Act 1959?

(10 marks)

(Total: 35 marks)

Continued...

QUESTION 2

Live Star Trading Sdn.Bhd located at Ayer Keroh, Malacca is manufacturing electrical home appliances. 576 employees are being employed in this company. The company is unionised. The Live Star Trading Employees Union was demanding on wage revision, bonus and other benefits since 2015. The management of the company did not respond to the demands of the union. The union members went on strike wef 1st August 2017 and the matter was referred to the Director General of Industrial Relations. The strike was deemed as "illegal" and the union faced legal action.

(i) Discuss the grounds on which the strike performed by the Live Star Trading Employees Unions is deemed "illegal".

(10 Marks)

(ii) Explain **FOUR (4)** dispute settlement methods that are available to the union before proceeding to a strike.

(20 Marks)

(Total: 30 Marks)

QUESTION 3

"Back wages is awarded to an unjustly dismissed workman, irrespective whether he is awarded reinstatement or compensation in lieu of reinstatement. It is awarded primarily to compensate the workman for the period that he had been unemployed because of his dismissal." With reference to this statement answer the following questions:

(i) Discuss in detail the decision of the Industrial Court in a widely publicised case Ramli Akim and Telekom Malaysia Bhd ([2005] 6 CLJ 487).

(15 Marks)

(ii) A new Section 30(6A) was introduced in 2008 to the Industrial Relations Act 1967 that requires the Industrial Court to take into account certain factors set out in a new Second Schedule where it makes an award under Section 20. State **FIVE (5)** factors that were included in Section 30(6A).

(10 Marks)

(Total: 25 Marks)

Continued...

QUESTION 4

"Constructive dismissal denotes the conduct of an employer, which is outrageous and makes continued employment impossible; a workman need not tolerate it and can treat himself or herself as dismissed."
Explain the concept of constructive dismissal with reference to the explanation given by His Lordship Dato' Gopal Sri Ram JCA in Quah Swee Khoon v Sime Darby Berhad [2000] 2 MLJ 600 (CA).

(Total: 10 Marks)

End of Question Paper.